

**OPINION  
59-218**

June 2, 1959 (OPINION)

OCCUPATIONS AND PROFESSIONS

RE: Dentists - Dental Laboratories - Prescription

This is in reply to your letter of May 18, 1959, concerning the new dental practice act adopted by the recent session of the Legislature. You wish to know if North Dakota dental laboratories must require a prescription from dentists who practice in adjacent states.

The pertinent provisions of Senate Bill No. 163, the dental practice act, are as follows:

SECTION 2. EXCEPTIONS. The provisions of this Act shall not apply:

1. To the filling of written prescriptions of a licensed and registered dentist by any person or legal entity, for the construction, reproduction or repair of prosthetic dentures, bridges, plates or appliances, to be used or worn as substitutes for natural teeth, provided, that such person or legal entity shall not solicit or advertise, directly or indirectly, by mail, card, newspaper, pamphlet, radio, television or otherwise to the general public to construct, reproduce, repair prosthetic dentures, bridges, plates or other appliances to be used or worn as substitutes for natural teeth;"

SECTION 25. ACTS DECLARED A MISDEMEANOR. It shall be unlawful:

. . . . .

5. For any dentist to use the service of any person or legal entity not licensed to practice dentistry in this state, to construct, alter, repair or duplicate any denture, plate, partial plate, bridge, splint, orthodontic or prosthetic appliance, without first furnishing such unlicensed person a written prescription of forms prescribed by the board, which shall contain:
  - a. The name and address of such unlicensed person;
  - b. The patient's name or number, in the event such number is used, the name of the patient shall be written upon the duplicate copy of such prescription retained by the dentist;
  - c. The date on which it was written;
  - d. A prescription of the work to be done, with diagram, if necessary;

- e. A specification of the type and quality of materials to be used;
- f. The signature of the dentist and the number of his North Dakota license.

Such unlicensed person shall retain the original prescription and the dentist shall retain a duplicate copy thereof for inspection by the board or its agent for two years.

- 6. For any dentist:
  - a. To use the service of any unlicensed persons without first having furnished him such prescription;
  - b. To fail to retain a duplicate copy thereof for two years, or
  - c. To refuse to allow the board or its agent to inspect such prescription during the two year period of time.
- 7. For any unlicensed person:
  - a. To perform any such service without first having obtained such prescription;
  - b. To fail to retain the original thereof for two years; or
  - c. To refuse to allow the board or its agent to inspect it during such two year period of time.

Section 25(7) cited above would appear to prohibit an unlicensed dental laboratory from performing "any such service" without "such prescription" as set forth in section 25(5). However, upon close examination of section 25(5) we find that certain of the requirements of the prescription, such as the number of dentists North Dakota license, apply only to dentists licensed in the state of North Dakota.

This would appear to indicate an intent on the part of the Legislature to require a prescription only from the dentists licensed in this state. In addition, the prime purpose of the act is to regulate the dentists operating in this state and such services as dental laboratories usually perform are specifically exempted from the provisions of the Act by section 2(1).

In view of these provisions, it is therefore our opinion that North Dakota dental laboratories need not require a prescription from dentists who practice in adjacent states and are not licensed in the state of North Dakota.

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